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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 KEVIN TYRONE RUFFIN,

9 *Petitioner,*

2:07-cv-00721-RLH-PAL

10
11 vs.

ORDER

12 DIRECTOR NEVADA DEPARTMENT
13 OF CORRECTIONS, *et al.*,

14 *Respondents.*
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16 Following upon petitioner's motion (#58) for partial dismissal in this represented habeas
17 matter under 28 U.S.C. § 2254, which motion has not been opposed,

18 IT IS ORDERED that petitioner's motion (#58) is GRANTED and that the following
19 claims are DISMISSED without prejudice for lack of exhaustion:

- 20 (1) Ground 3 to the extent that petitioner alleges that
21 trial counsel was ineffective for failing to object to
22 references in the State's opening statement and
23 closing argument about the Bellagio videotape;
24 (2) Ground 4 in its entirety;
25 (3) Ground 5 to the extent that petitioner claims that
26 trial counsel was ineffective for failing: (a) to
27 challenge the identification testimony of Dan
28 Smolinski and Dolores Harris; and (b) to object to

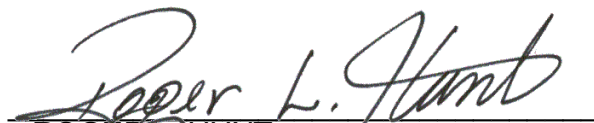
1 Diana Stubenrauch's testimony identifying Ruffin in
2 the surveillance video as inadmissible lay opinion;

3 (4) Ground 7 to the extent that petitioner claims that
4 trial counsel was ineffective for failing: (a) to
5 interview witnesses Dan Smolinski, Dolores Harris,
6 and Diana Stubenrauch, to enable counsel to either
7 exclude their identification testimony entirely or at
8 least impeach the witnesses; and (b) to interview
9 Ruffin's alleged accomplices, Kimberly Meeks and
10 Wanda Duncan, to discover that Meeks allegedly
11 would have testified that she did not know Ruffin
12 and that she never rented a car with Duncan; and

13 (5) Grounds 11 and 12 in their entirety.

14 The Court is endeavouring to issue an order on the remaining claims in the petition,
15 including regarding the request for an evidentiary hearing, as promptly as possible, following
16 upon the completion of the recent supplemental briefing.

17 DATED: July 28, 2011.

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21 ROGER L. HUNT
22 United States District Judge
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